



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2021-0054; EPA-R05-OAR-2022-0254; FRL-9686-02-**

**Region 5]**

**Air Plan Approval; Indiana; Redesignation of the Indiana portion  
of the Louisville, Indiana-Kentucky Area to Attainment of the  
2015 Ozone Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) finds that the Indiana portion of the Louisville, Indiana-Kentucky area (Area) is attaining the 2015 primary and secondary ozone National Ambient Air Quality Standards (NAAQS), and acts in accordance with a request from the Indiana Department of Environmental Management (IDEM) to redesignate the Indiana portion of the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Area includes Clark and Floyd Counties in Indiana and Bullitt, Jefferson, and Oldham Counties in Kentucky. IDEM submitted this request on February 21, 2022. EPA is approving, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2035 in the Indiana portion of the Louisville area. EPA also finds adequate and is approving Indiana's 2035 volatile organic compound (VOC) and

oxides of nitrogen (NO<sub>x</sub>) Motor Vehicle Emission Budgets (budgets) for the Indiana portion of the Louisville area. Finally, EPA is approving portions of a separate January 21, 2021, submittal from IDEM as meeting the applicable requirements for a base year emissions inventory for the area and emissions statement program for Lake, Porter, Clary, and Floyd counties. EPA proposed to approve these actions on May 18, 2022, and received no adverse comments.

**DATES:** This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established dockets for this action under Docket ID EPA-R05-OAR-2020-0054, or EPA-R05-OAR-2022-0254. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Andrew Lee,

Physical Scientist, at (312)-353-7645 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)-353-7645, *lee.andrew.c@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

## **I. Background Information.**

On May 18, 2022 (87 FR 30129), EPA proposed to approve the 2015 Ozone NAAQS redesignation and maintenance plan for the Indiana portion of the Louisville area and IDEM’s 2035 VOC and NO<sub>x</sub> motor vehicle emission budgets for the Indiana portion of the Louisville area. EPA also proposed to approve IDEM’s emission inventory for the Indiana portion of the Louisville area under the 2015 Ozone NAAQS, and IDEM’s emission statement certification for the 2015 ozone standard. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on June 17, 2022. EPA received no comments on the proposal. We are finalizing our action as proposed.

## **II. Final Action.**

EPA finds that the Indiana portion of the Area is attaining the 2015 ozone NAAQS based on quality-assured and certified monitoring data for 2019-2021 and that the Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus approving a change in the legal designation of the Indiana portion of the Area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also approving, as a revision to the Indiana SIP, the State's maintenance plan for the Area. The maintenance plan is designed to keep the Indiana portion of the Area in attainment of the 2015 ozone NAAQS through 2035. EPA also finds adequate and is approving the 2035 VOC and NO<sub>x</sub> motor vehicle emission budgets for the Indiana portion of the Area. EPA is further approving the base year emissions inventories for the Indiana portion of the Area under the 2015 ozone NAAQS. Finally, we are confirming that Indiana has acceptable and enforceable annual emission statement regulations that require all facilities located in Lake, Porter, Clark, and Floyd Counties that emit greater than or equal to 25 tons/year of NO<sub>x</sub> or VOC during the reporting year to submit annual emissions statements.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), EPA finds there is good cause for this action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d) (1) of the APA provides that final rules shall not become effective until 30 days after publication in the *Federal Register* "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." Omnipoint Corp. v. Fed. Commc'n Comm'n, 78 F.3d 620, 630 (D.C. Cir. 1996); see also United States v. Gavrilovic, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment New Source Review (NNSR) permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive Prevention of Significant Deterioration (PSD) permitting requirements. For this reason, EPA finds good cause under 5 U.S.C. 553(d) (1) for this action to become effective on the date of publication of this action.

### **III. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects**

##### **40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

##### **40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 28, 2022.

Cheryl Newton,  
*Deputy Regional Administrator, Region 5.*



For the reasons stated in the preamble, 40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (e) is amended by adding entries for “Clark and Floyd Counties 2015 8-hour Ozone Emission Inventory,” “Lake, Porter, Clark, and Floyd Counties 2015 8-hour Ozone Emission Statement” and “Clark and Floyd Counties 2015 8-hour Ozone Maintenance Plan” immediately following the entry for “Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan” to read as follows:

**§ 52.770 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Indiana date	EPA approval	Explanation
* * * * *	* * *	*	
Clark and Floyd Counties 2015 8-hour Ozone Emission Inventory	1/21/2021	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Lake, Porter, Clark, and Floyd Counties 2015 8-hour Ozone Emission Statement	1/21/2021	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
Clark and Floyd Counties 2015 8-hour Ozone Maintenance Plan	2/21/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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**PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as

follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Section 81.315 is amended by revising the entry "Louisville, KY-IN" in the table entitled "Indiana-2015 8-Hour Ozone NAAQS

[Primary and Secondary]" to read as follows:

**§81.315 Indiana**

\* \* \* \* \*

**INDIANA-2015 8-HOUR OZONE NAAQS**  
[Primary and Secondary]

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date <sup>2</sup>	Type
* * * *	* * *			
Louisville, KY-IN	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment		Marginal.
Clark County				
Floyd County				
* * * *	* * *			

<sup>1</sup> Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

<sup>2</sup> This date is August 3, 2018, unless otherwise noted.

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[FR Doc. 2022-14202 Filed: 7/1/2022 8:45 am; Publication Date: 7/5/2022]